



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

[REDACTED]
Docket No. 8631-22
Ref: Signature Date

[REDACTED]
[REDACTED]
[REDACTED]
Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. After careful and conscientious consideration of the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

A three-member panel of the Board, sitting in executive session, considered your application on 24 January 2023. The names and votes of the members of the panel will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, relevant portions of your naval record, and applicable statutes, regulations, and policies.

The Board carefully considered your request to remove your 11 February 2021 and 7 April 2021 Administrative Remarks (Page 11) 6105 counseling entries, as well as your request to remove your fitness report for the reporting period 1 January 2021 to 7 April 2021. The Board considered your contention that the counseling entries were for the exact same situation and issued by the same person. You also contend that counseling entries are vague and do not specify which part of the MCO 5354.1E you violated, and that the alleged violation occurred on a date prior to checking into the unit. Finally the Board considered your contention that the counselings are an inaccurate and unjust depiction of the impact, behavior, character, and work environment that you had at the time.

Regarding your contention that the counseling entries were for the exact same situation from the same issuing officer, the Board noted that this was not the case. In this regard, the Board noted that the 11 February 2021 counseling entry notified you that you were being relieved of your duties as the Headquarters and Headquarters **[REDACTED]** for loss of confidence in your abilities to perform your duties as well as your lack of judgement. The 7 April 2021 counseling entry was issued for violation of Article 92, Uniform Code of Military Justice for failure to obey an order or regulation.

The Board determined the issuing officer was well within his discretionary authority to issue the counseling entries, and that the entries met the 6105 counseling requirements detailed in MCO 1900.16 (MARCORSEPMAN). Specifically, the Board noted the entries provided written notification concerning your deficiencies, specific recommendations for corrective action indicating any assistance available, a comprehensive explanation of the consequences of failure to successfully take the recommended corrective action, and a reasonable opportunity to undertake the recommended corrective action. You were also afforded the opportunity to rebut the counseling entries.

In regards to your claim that you had not yet checked into your unit for the date of the alleged violation, the Board noted that the Unit Punishment Book documenting your 7 April 2021 nonjudicial punishment stated that you “knew of [your] duties on or about 22 February 2020.” Your date current tour began on 20 February 2020.

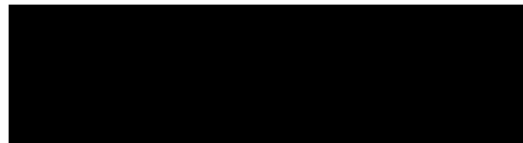
Finally, in regards to your contention that the counselings are an inaccurate and unjust depiction of the impact, behavior, character, and work environment that you had at the time, the Board determined there is insufficient evidence to invalidate the counseling entries.

Concerning your request to remove your fitness report for the reporting period 1 January 2021 to 7 April 2021, the Board determined that you have not exhausted your administrative remedies. The Headquarters Marine Corps Performance Evaluation Review Board (PERB) is the initial action agency for fitness report appeals, therefore, you must submit your request to the PERB according to the Marine Corps Performance Evaluation System Manual. Accordingly, the Board concluded that you failed to provide sufficient evidence demonstrating the existence of a probable material error or injustice warranting your requested relief.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

2/22/2023

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Deputy Director

Signed by: 